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September 7, 2004

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FACSIMILE & COURIER

Ms. Kim C. Stevenson
Paralegal
Complaints Examination and Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

SEP - 8 A 11:50

Re: MUR 5511 (Swift Boat Veterans for Truth)

Dear Ms. Stevenson:

This letter responds to the Complaint filed against Swift Boat Veterans for Truth ("SBVT"). SBVT is a tax-exempt organization under section 527 of the Internal Revenue Code. The organization is led by Rear Admiral Roy Hoffmann, USN (retired), Commander of all Swift Boats in Vietnam during the period of John Kerry's four-month tour in Swift Boats between late November 1968 and mid-March 1969. A list of the 254 members may be found on www.swiftvets.com. A large majority of those who served with John Kerry in Swift Boats in Vietnam have joined the organization. The purpose of SBVT is to add to the public debate essential information about John Kerry's post-Vietnam charges of war crimes and his own Vietnam record. SBVT is uniquely positioned to do so since it includes most of the locatable sailors and officers who served with John Kerry in Vietnam.

As the Complainants are aware, the Commission has debated the flawed legal theories that form the basis of the allegations contained in the Complaint. A few weeks ago, after rejecting these theories numerous times, the Commission adopted new regulations that will regulate section 527s that engage in issue advocacy activities. The Commission, however, specified that the new regulations would not become effective until January 1, 2005. The Commission's actions last week make clear that the legal theories advanced in the Complaint do not apply to 527s engaging in issue advocacy activities this election cycle. Therefore, as a matter of law, the Commission must dismiss the Complaint.

In addition, SBVT denies each allegation made in the Complaint. It is not a political committee under the Federal Election Campaign Act and Federal Election Commission regulations

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(collectively "the FECA"). The television ads sponsored by SBVT, and its other communications, do not expressly advocate the election or defeat of any Federal candidate. Significantly, Complainants are unable to cite any communication sponsored by SBVT that contains express advocacy nor do they allege that any of the communications sponsored by the organization contain express advocacy.

Finally, SBVT has complied with the source prohibitions and reporting obligations applicable to electioneering communications. The organization has established two separate bank accounts – one for donations from individuals and another separate account for donations from corporations and other business entities. The production costs for each communication that may qualify as an electioneering communication have been paid for with permissible funds from the account containing donations from individuals. As of the filing date of this response, the organization has not sponsored any communications that trigger the FEC Form 9 electioneering communication-reporting requirements. Accordingly, since SBVT has not engaged in express advocacy activities and has complied with the source prohibitions and reporting obligations applicable to electioneering communications, the Commission must find no reason to believe a violation of the FECA has occurred

Sincerely,

A handwritten signature in black ink, appearing to read 'Benjamin L. Ginsberg', written over the typed name.

Benjamin L. Ginsberg
William J. McGinley
Glenn M. Willard

26044152212